

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

NETLIST, INC.,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD., et al.,

Defendants.

Civil No. 2:22-cv-00293-JRG  
(Lead Case)

**JURY TRIAL DEMANDED**

**SAMSUNG’S OPPOSED MOTION TO  
COMPEL THE PUBLIC PORTIONS OF THE TRIAL  
TRANSCRIPT OF *NETLIST V. MICRON*, 2:22-CV-294-JRG-RSP**

Netlist should be compelled to produce the public portions of the transcript from the recent trial in *Netlist, Inc. v. Micron Technology Texas et al.*, 2:22-cv-00294-JRG-RSP (“Micron Trial”).<sup>1</sup> The Micron Trial involved the same set of witnesses that Netlist intends to call at the trial in this case, the same patents, and the same categories of accused products. There is no question that the testimony of Netlist’s witnesses in the Micron Trial bears directly on the issues in this case. Netlist, however, refuses to produce the public portions of the Micron Trial transcript to Samsung without any justification, and despite Micron’s consent to the production.

The Micron Trial ended on June May 23, 2024, over two months ago. The public version of the trial transcript remains unavailable, however, except to the parties, and the parties

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<sup>1</sup> Samsung has filed a motion to stay this case pending appeal of the IPRs that have reached final written decision invalidating asserted claims. Dkt 735. This motion is filed without prejudice to the stay motion and merely as a precautionary measure in the event Samsung’s motion is denied and trial does in fact proceed.

have yet to file a request for redaction. Thus, the public version of the Micron Trial transcript will not be available on the public docket by September 9, 2024, when trial in this case begins.

The public versions of the Micron Trial Transcript are highly relevant to this case. During the public portions of the proceedings, Netlist fact witness Mr. Milton, technical expert witness Dr. Mangione Smith, and damages expert Mr. Kennedy, all provided testimony on two of the three patents asserted in this case—U.S. Patent Nos. 11,093,417 and 7,619,912. The sworn, public testimony of these witnesses regarding the scope of the asserted patents, the alleged infringement, validity, the technical benefits provided by the patents, and Netlist’s damages analysis for these patents are highly relevant to this case. These trial transcripts include sworn testimony of Netlist’s witnesses in this case that should be available to Samsung to use as part of its cross-examination. In particular, Mr. Kennedy and Dr. Mangione Smith are Netlist’s only two “will call” witnesses on its witness list, and Mr. Milton is listed as a “may call” witness. Dkt. 694-1.

Netlist has no legitimate reason to deny Samsung access to the public portions of the Micron Trial Transcript, and it provided none during the meet and confer process. *See* Ex. 1. Netlist’s continued refusal—despite Micron’s express consent—is unreasonable. There is no alternative way for Samsung to obtain the transcript except through the parties. Samsung thus respectfully requests that the Court compel Netlist to produce the public portions of the Micron Trial Transcript to Samsung.

Dated: August 12, 2024

Respectfully submitted,

By: /s/ Daniel A. Tishman

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Samsung Electronics America, Inc.; and Samsung Semiconductor, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was filed electronically in compliance with Local Rule CV-5 on August 12, 2024. As of this date, all counsel of record have consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A).

/s/ Daniel A. Tishman

**CERTIFICATE OF CONFERENCE**

Pursuant to Local Rules CV-7(h) and (i), counsel for the parties met and conferred telephonically on August 12, 2024. Jennifer Trulove and Jason Sheasby attended for Plaintiff. Melissa Smith, Ruffin Cordell, and Daniel Tishman attended for Defendants. The parties discussed their positions on this motion. The discussions conclusively ended in an impasse, leaving an open issue for the court to resolve. Counsel for Plaintiff indicated that they oppose this motion.

/s/ Daniel A. Tishman